

**REMARKS**

Claims 1-10 are all the claims pending in the application, of which claims 1 and 5 are independent. Applicants respectfully submit that the claims define patentable subject matter.

**Claim Rejections - 35 U.S.C. § 101**

*Claims 5-10 are rejected under 35 U.S.C. § 101 because the claimed invention is allegedly directed toward non-statutory subject matter.*

Applicants have amended claim 5 to recite among other features, “displaying a message on the display of the franking system alerting the operator to the expiration of tariffs; and receiving on the keyboard a decision of the operation whether to replace the current postal data with the new postal data; and...franking the mail item with the current postal data using a franking machine even though the date of application of the current postal data is out of date.”

As amended, claim 5 is tied to at least one particular machine and therefore withdrawal of the present rejection is respectfully requested.

**Claim Rejections - 35 U.S.C. § 103**

*Claims 1-3, 6, 7, 9, and 10 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Baum et al. (US Patent 7,103,583; hereinafter “Baum”) in view of Dlugos et al. (US Patent 6,463,133; hereinafter “Dlugos”). Applicants respectfully traverse this rejection for at least the following reasons.*

Applicants have amended claims 1 and 5 to recite, among other features, “means for emitting to the operator of the franking system, at the time of franking, a message alerting that postal data corresponding to the mail item to be franked has been changed....”

The Examiner alleges that Dlugos discloses means for emitting to the operator an alert message upon a determination that there is a change in the postal tariffs and that it would have been obvious to modify Baum to include the ability to emit to an operator that postal tariffs are expiring and allow the operator to replace the expired tariffs (Office Action, page 9).

Applicants submit that Dlugos merely discloses a decision made by the operator during a single initiation phase. Dlugos discloses uploading data from a central office, which is initiated by the central office to cause a message to be displayed (column 4, lines 27-31). The message includes instructions for the scale user to insert the flash programmable memory into the socket and then initiate a call by pressing a call initiation switch (column 4, lines 46-53). The reason Dlugos has the scale user press a call initiation switch to initiate a call, is because the uploading occurs over a telephone line and many offices have only a limited number of telephone lines (see column 1, lines 26-34).

In other words, Dlugos merely discloses emitting an alert message during a single initiation phase initiated by the central office, and not at the time of franking, as recited in claims 1 and 5. Claims 1 and 5 on the other hand, permit making a decision by the operator just before franking each mail item.

In light of the above, it is submitted that claims 1 and 5 are patentable over the art of record because neither Baum nor Dlugos teach or fairly suggest emitting to the operator of the franking system, at the time of franking, a message.

Claims 2, 3, 6, 7, 9, and 10 are patentable at least by virtue of their dependencies.

*Claim 4 is rejection under 35 U.S.C. § 103(a) as allegedly being unpatentable over Baum in view of Dlugos, and further in view of Thiel (US Patent 6,321,214).*

Thiel does not supply the deficiencies of Baum and Dlugos in that it fails to disclose the means for emitting the claimed message at the time of franking. Therefore, claim 4 should be patentable at least by virtue of its dependency.

*Claim 8 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Baum in view of Dlugos and further in view of Eckert (US Patent 4,516,014).*

Eckert does not supply the deficiencies of Baum and Dlugos in that it fails to disclose the claimed comparing at the time of franking. Therefore, claim 8 should be patentable at least by virtue of its dependency.

## **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.114(c)  
U.S. Application No.: 10/767,143

Attorney Docket No.: Q106386

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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**23373**

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